



Subhan Tariq <subhan@tariqlaw.com>

Notice of Subpoenas (Bah v. Apple Inc., et al. 1:19-cv-03539-PKC)

Viggiani, Katie L. <KViggiani@mofo.com>

Tue, May 14, 2019 at 11:26 PM

To: Subhan Tariq <subhan@tariqlaw.com>, "Cohen, Carrie H." <CCohen@mofo.com>, "dlmetzger@lewisjohs.com" <dlmetzger@lewisjohs.com>

Cc: Carlos Perez <cperez@tariqlaw.com>

Counsel,

We write in response to your May 14, 2019 email in which you notify us of your intention to serve third-party subpoenas on certain law enforcement agencies and attach copies of those subpoenas. Please be advised that service of any subpoenas at this stage of the litigation would be in violation of Rule 26(d)(1) of the Federal Rules of Civil Procedure.

Pursuant to Rule 26(d)(1):

A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order.

Fed. R. Civ. P. 26(d)(1); *see also Desilva v. North Shore-Long Island Jewish Health Sys.*, 10-CV-1341 (JFB)(ETB), 2010 U.S. Dist. LEXIS 79816, at *3 (E.D.N.Y. Aug. 9, 2010) (quashing third-party subpoena issued prior to 26(f) conference). As the parties have not yet conferred and no Rule 26(f) conference has been held, you are not permitted to serve third-party subpoenas.

In addition, while your May 14, 2019 email stated that Plaintiff "has or intends to serve the annexed subpoenas," Rule 45 of the Federal Rules of Civil Procedure requires that notice be provided "*before* it is served on the person to whom it is directed." Fed. R. Civ. P. 45(a)(4) (emphasis added). Accordingly, please clarify whether you have already served the subpoenas, and, if you have not, please confirm that you will not do so at this time. If you have already served the subpoenas on the third-party law enforcement agencies, please inform those third parties with copy to us that you have withdrawn the subpoenas as premature.

Failure to hear from you, we will raise this issue with the Court as part of our pre-motion letter.

Regards,

Katie

KATIE VIGGIANI

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From: Subhan Tariq [mailto:subhan@tariqlaw.com]

Sent: Tuesday, May 14, 2019 5:34 PM

To: Cohen, Carrie H.; Viggiani, Katie L.; dlmetzger@lewisjohs.com

Cc: Carlos Perez

Subject: Notice of Subpoenas (Bah v. Apple Inc., et al. 1:19-cv-03539-PKC)

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